T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

| Date: | • | | 22-Aug-08 | APPL. S. N: | 10511656 | | | | |
|-----------------------|---|---|--|--|---|--|--|--|--|
| To Exam | iner: | | HILL, KEVIN | Art Unit | 1633 | | | | |
| From | r | | Collins, Della PARALEGAL SPCECIALIST | Return This Memo To: Case Drop-Off Location | REMSEN | | | | |
| SUBJEC [*] | r: Decisio | on on Te | rminal Disclaimer(T.D.) filed: | | | | | | |
| form par or have a | agraphs i ny quest | dentified ions, plo | eviewed the submitted T.D. with the d by this informal memo in your next ease see me or the Special Program I ED TO APPLICANT OR (2) PLACED O | Office action to notify applicant o Examiner THIS IS AN INFORMAL, | f the T.D. If you disagree INTERNAL MEMO ONLY. | | | | |
| please in | itial, date | and re | turn this memo to me. THANK YOU. | | | | | | |
| V | The T.D. | is PROF | PER and has been recorded (see 14.2 | 23) | | | | | |
| Γ. | The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see 14.24): | | | | | | | | |
| | | The TD fee of has not been submitted nor is there any authorization in the application file for the use of a deposit account | | | | | | | |
| | | The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see 14.26 & 14.26.01). | | | | | | | |
| | Γ | The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see 14.27.01). | | | | | | | |
| | | The T.D. is directed to a particular claim(s), which is not acceptable since "the disclaimer must be for a terminal portion of the term of the entire patent to be granted" (MPEP 1490) (see 14.26 & 14.26.02). | | | | | | | |
| | Γ. | The person who signed the T.D.: | | | | | | | |
| | | Γ. | is not an attorney "of record" (see | 14.29 and 14.29.01). | | | | | |
| | | Γ. | has failed to state his/her capacity | to sign for the business entity (se | ee 14.28). | | | | |
| | | | is not recognized as an officer of t | he assignee (see 14.29 & possible | 14.29.02). | | | | |
| | | No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel ar frame number may be found in the T.D. or in a separate paper of record in the application (see 14.30). | | | | | | | |
| | Γ. | The T.D. is not signed (see 14.26 & 14.26.03). | | | | | | | |
| | | The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see 14.32). | | | | | | | |
| | | The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see 14.26, 14.27.02 or 14.26.05). | | | | | | | |
| | | The pe | riod disclaimed is incorrect or not spe | ecified (see 14.26, 14.27.02 or 14. | .26.03). | | | | |
| | | Other: | | | <u> </u> | | | | |
| | | Suggestion to request refund (see 14.36). NOTE: If already authorized, credit refund to deposit account and do not check this item. | | | | | | | |
| I have ap | propriate | ely notifi | ed applicant(s) of the status of the T | erminal Disclaimer filed in this cas | se. | | | | |
| Ex.Initial | s: | | Date: | | Log Date: | | | | |

| _Application Number | Application/Control No. | | Applicant(s)/Patent under Reexamination SCHULTE ET AL. | | | | | |
|----------------------------|---|---|--|----------------------|--|--|--|--|
| Document Code - DISQ | Internal Doc | | ocument – DC | cument – DO NOT MAIL | | | | |
| | | | | | | | | |
| TERMINAL DISCLAIMER | ☑ APPROVED | | ☐ DISAPP | ☐ DISAPPROVED | | | | |
| Date Filed : July 24, 2008 | This patent is subject to a Terminal Disclaimer | | | | | | | |
| Approved/Disapproved by: | | | | | | | | |
| Henry D. jefferson | 3 · | · | | | | | | |
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PTO/SB/25 (01-08)

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| TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION | Docket Number (Optional) 129402.00101 |
|---|---|
| In re Application of: Schulte et al. | |
| Application No.: 10/511,656 | |
| Filed: April 18, 2005 | |
| For: MEANS AND METHODS FOR THE SPECIFIC INHIBITION OF GENES IN CELLS AND TISSUE OF TH | E CNS AND/OR EYE |
| The owner*, ACUITY PHARMACEUTICALS, INC., of 100 percent interest in the instate except as provided below, the terminal part of the statutory term of any patent granted on the instant application date of the full statutory term of any patent granted on pending reference Application Number on April 18, 2005, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any papilication may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending hereby agrees that any patent so granted on the instant application shall be enforceable only for and during granted on the reference application are commonly owned. This agreement runs with any patent granted binding upon the grantee, its successors or assigns. | ation which would extend beyon 10/511,657 , file atent granted on said reference reference application. The owner |
| In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on t extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any parapplication, "as the term of any patent granted on said reference application may be shortened by any termination of any patent on the pending reference application," in the event that: any such patent: granted on the pexpires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent juin in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to | Itent granted on said reference minal disclaimer filed prior to the bending reference application: risdiction, is statutorily disclaimed |
| Check either box 1 or 2 below, if appropriate. | |
| For submissions on behalf of a business/organization (e.g., corporation, partnership, university, governetc.), the undersigned is empowered to act on behalf of the business/organization. | rnment agency, |
| I hereby declare that all statements made herein of my own knowledge are true and that all state belief are believed to be true; and further that these statements were made with the knowledge that willful made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States statements may jeopardize the validity of the application or any patent issued thereon. | 6-1 1-1 1 11 121 |
| 2. The undersigned is an attorney or agent of record. Reg. No. 53,835 | |
| - Calletal | July 24, 2008 |
| Signature | Date |
| C. Allen Black Typed or printed name | |
| | 412-454-5000 Telephone Number |
| Terminal disclaimer fee under 37 CFR 1.20(d) is included. | To opino i tambo |
| | |
| WARNING: Information on this form may become public. Credit card information she included on this form. Provide credit card information and authorization on PT | nould not O-2038. |
| Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). orm PTO/SB/96 may be used for making this statement. See MPEP § 324. | |

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.